

Serial No.: 10/777,801

REMARKS

Status of Claims

Claims 1-33 remain pending in the application. Claims 1-24 are under examination. Claims 25-33 are presently withdrawn from consideration.

Rejection under 35 USC §112, second paragraph

Withdrawal of the rejection of claims 1-24 under 35 USC §112, second paragraph is noted with appreciation.

Rejection under 35 USC §112, first paragraph

Claims 1-24 are rejected under 35 USC §112, first paragraph as allegedly failing to comply with the written description requirement.

According to the Office Action, claim 1 as amended sets forth a region which comprises either the therapeutic agent (i.e., a carrier region) or a region that is disposed over the therapeutic agent (i.e., a barrier region). Citing paragraphs [0014] to [0017], the Office Action further states that it is clear from the specification that the medical article many contain *both* a carrier region and a barrier region, but erroneously concludes that that selection of one or the other somehow constitutes new matter.

While it is clearly the case that the article may comprise *both* a carrier region and a barrier region (see paragraphs [0015] to [0016]), it is equally clear from the specification that the medical article may comprise *either* a carrier region *or* a barrier region (see, e.g., paragraph [0044]).

Moreover, it is further noted that claim 1 was previously amended based on language that was copied essentially *verbatim* from original claims 2 and 3. The fact that claim 2 refers to claim 1 and the fact that claim 3 refers to claim 1 (as opposed to claim 2) provides further clear support for the selection of either a carrier region or a barrier region (as opposed to both). "It is now well accepted that a satisfactory [written] description may be in the claims or any other portion of the originally filed specification." MPEP 2163, citing *In re Koller*, 613 F.2d 819, 204 USPQ 702 (CCPA 1980) (original claims constitute their own description); accord *In re*

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Gardner, 475 F.2d 1389, 177 USPQ 396 (CCPA 1973); *accord In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976).

Reconsideration and withdrawal of the rejection of claims 1-24 under 35 USC §112, first paragraph are respectfully requested.

CONCLUSION

It is believed that all claims are presently in condition for allowance.

Should the Examiner be of the view that an interview would expedite consideration of the application, request is made that the Examiner telephone the Applicants' attorney at (703) 433-0510 in order that any outstanding issues be resolved.

The Office is authorized to charge any fees required, to deposit account number 50-1047.

Respectfully submitted,

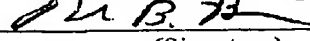


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I hereby certify that this correspondence is being deposited with the United States Patent and Trademark Office on Sept. 22, 2008 via facsimile to: 571-273-8300.

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